



Intellectual Property

SIMPSON GRIERSON 2007

Registered Designs

It is possible to get registered protection for the non-functional shapes of articles.

Design registration in New Zealand under the Designs Act 1953 will protect those

designs that are intended to "appeal to the eye".

However, there is no need for the design to be artistic or have artistic appeal.

Design registration can be extended to patterns or ornaments for specific articles.

Design protection is like a registered (and more powerful) form of copyright protection in New Zealand. The advantage of protection under the Designs Act

1953 (rather than relying solely on copyright protection) is that design registration gives the holder the exclusive right in New Zealand to make, import, or sell any article for which a design is registered. Unlike copyright, it is not necessary to show copying to prove infringement. Protection is for five years from the date of application and may be extended to 10 and then 15 years upon payment of the renewal fees.

Design registration opportunities easily lost

If you have a design that may be registrable, failure to take

appropriate action at the outset may inhibit your ability to get valid design protection down the track.

Remember to follow these steps:

- ♦ do not publish the design or information about it;
- ♦ do not put the design into commercial use;
- ♦ have adequate security around the design; and
- ♦ keep the design and information about it confidential;

until you have sought protection.

Also make sure design searches are carried out, at least in New Zealand (and preferably overseas), to find out if your design is novel and

whether it may infringe anyone else's rights.

Designs overseas

New Zealand has relatively strong copyright laws for "articles" but there are still advantages in registering your designs. Overseas, copyright protection for three-dimensional articles can be very limited, or even non-existent. Without design protection in these countries you may be completely unable to stop third parties from legally copying your design.

Design procedure

A simple outline of the method for obtaining design registration in New Zealand is as follows:

- ◆ File a design application at the Intellectual Property Office of New Zealand ("IPONZ"). An application to register a design must meet certain formal requirements. This must include a statement of where the novelty in the design resides.
- ◆ The design application will then be examined by IPONZ. IPONZ will check whether the design meets the conditions for

registration of a design and in particular whether the design is novel in New Zealand as at the date of the application.

- ◆ If the design application is accepted, it will be advertised in the New Zealand Patent Office Journal.

Once your design is registered, we recommend that goods or products to which the design is applied, should include the words "New Zealand Design Registration No.....".



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